

**2004 REPORT OF THE SECRETARY OF COMMERCE  
TO THE CONGRESS OF THE UNITED STATES  
CONCERNING U.S. ACTIONS TAKEN ON  
FOREIGN LARGE-SCALE HIGH SEAS DRIFTNET FISHING  
PURSUANT TO SECTION 206(e) OF THE  
MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT,  
AS AMENDED BY PUBLIC LAW 104-297,  
THE SUSTAINABLE FISHERIES ACT OF 1996**

## I. INTRODUCTION

**Public Law 101-627:** On 28 November 1990, the President signed Public Law 101-627, the Fishery Conservation Amendments of 1990. Title I, Section 107, of the law amended Section 206 of the Magnuson-Stevens Fishery Conservation and Management Act (hereafter referred to as the Magnuson-Stevens Act) (16 USC 1826) to incorporate and expand upon provisions of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987.

Section 206(b) of the Magnuson-Stevens Act sets forth Congressional findings, including inter alia that "the continued widespread use of large-scale driftnets beyond the exclusive economic zone (EEZ) of any nation is a destructive fishing practice that poses a threat to living marine resources of the world's oceans." It also notes the expansion of large-scale driftnet fishing into other oceans and acknowledges the 30 June 1992 global driftnet moratorium called for by United Nations General Assembly (UNGA) Resolution 44/225. Finally, Section 206(b) recognizes the moratorium on the use of large-scale driftnets agreed through the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, also known as the Wellington Convention.

Section 206(c) sets forth Congress's driftnet policy, specifically that the United States should:

- (1) implement the moratorium called for by UNGA Resolution 44/225;
- (2) support the Tarawa Declaration and the Wellington Convention; and
- (3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

Section 206(d) directs the Secretary of Commerce, through the Secretary of State and the Secretary of Homeland Security, to seek to secure international agreements to implement immediately the findings, policy, and provisions of Section 206, particularly the international ban on large-scale driftnet fishing.

Section 206(e) directs the Secretary of Commerce, after consultation with the Secretaries of State and Homeland Security, to submit to Congress no later than 1 January an annual report (1) describing the efforts made to carry out Section 206(c); (2) evaluating the progress of those efforts, the impacts on living marine resources, including available observer data, and plans for further action; (3) listing and describing any new high seas driftnet fisheries developed by nations that conduct or authorize their nationals to conduct large-scale high seas driftnet fishing; and (4) listing nations that conduct or authorize their nationals to conduct high seas driftnet fishing in a manner that diminishes the effectiveness of or is inconsistent with any international agreement governing large-scale driftnet fishing to which the United States is a party. (The number of reporting requirements in Section 206(e) of Public Law 101-627 were reduced in 1996 to those above by Public Law 104-297, the Sustainable Fisheries Act.)

Finally, if at any time the Secretary of Commerce, in consultation with the Secretaries of State and Homeland Security, identifies any nation that warrants inclusion in the list described in (4) above, the Secretary shall certify that fact to the President. This certification shall be deemed to be a certification for the purposes of Section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a), as amended by Public Law 102-582), commonly referred to as the Pelly Amendment. Such a certification gives the President the discretion to embargo some or all products imported into the United States from that nation, so long as such action is consistent with U.S. obligations under the General Agreement on Tariffs and Trade.

**Public Law 102-582:** On 2 November 1992, the President signed Public Law 102-582, the High Seas Driftnet Fisheries Enforcement Act. Among other things, this Act is intended to enforce implementation of UNGA Resolution 46/215, which called for a worldwide driftnet moratorium beginning 31 December 1992. Once the Secretary of Commerce identifies a country as a nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the EEZ of any nation, pursuant to the Act, a chain of U.S. actions is triggered. The Secretary of the Treasury must deny entry of that country's large-scale driftnet vessels to U.S. ports and navigable waters. At the same time, the President is required to enter into consultations with the country within 30 days after the identification to obtain an agreement that will effect the immediate termination of high seas large-scale driftnetting by its vessels and nationals. If these consultations are not satisfactorily concluded within 90 days, the President must direct the Secretary of the Treasury to prohibit the importation into the United States of fish, fish products, and sport fishing equipment from the identified country. The Secretary of the Treasury is required to implement such prohibitions within 45 days of the President's direction.

If the above sanctions are insufficient to persuade the identified country to cease large-scale high seas driftnet fishing within six months, or if it retaliates against the United States during that time period as a result of the sanctions, the Secretary of Commerce is required to certify this fact to the President. Such a certification is deemed to be a certification under Section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a), as amended by Public Law 102-582).

**Public Law 104-43:** Public Law 104-43, the Fisheries Act of 1995, was enacted on 3 November 1995. Title VI of this law, the High Seas Driftnet Fishing Moratorium Protection Act, prohibits the United States, or any agency or official acting on behalf of the United States, from entering into any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that would prevent full implementation of UNGA Resolution 46/215. Title VI also charges the Secretary of State, on behalf of the United States, to seek to enhance the implementation and effectiveness of the UNGA resolutions and decisions regarding the large-scale high seas driftnet moratorium through appropriate international agreements and organizations. Finally, the act specifies that the President of the United States shall utilize appropriate assets of the Department of Defense, the U.S. Coast Guard (USCG), and other Federal agencies, to detect, monitor, and prevent violations of the UN large-scale high seas driftnet moratorium for all fisheries under the jurisdiction of the United States, and to the fullest extent permitted under international law for fisheries not under U.S. jurisdiction.

The National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, in consultation with the Department of State and the Department of Homeland Security, submits the following report for 2004 in fulfillment of the Section 206(e) reporting requirement. Information pertaining to U.S. actions in support of the Act prior to 2004 and after 1988 can be found in the 1990-2003 annual driftnet reports to the Congress available from NMFS.

## **II. DESCRIPTION AND PROGRESS OF EFFORTS MADE TO CARRY OUT PROVISIONS OF SECTION 206(c) POLICY**

### **A. Implementation of the Driftnet Moratorium called for by UNGA Resolutions 44/225, 45/197, and 46/215:**

#### **1. Current Status of the Driftnet Moratorium**

As of 31 December 2004, the UNGA global moratorium on large-scale high seas driftnet fishing has been in effect for 12 years. International implementation of the moratorium in the world's oceans and enclosed and semi-enclosed seas continues to be generally successful, although problem areas remain. Of the two major problem areas in recent years, the North Pacific Ocean and the Mediterranean Sea, 22 vessels capable of conducting unauthorized large-scale high seas driftnet fishing operations were reported in the North Pacific Ocean in 2004. None were reported operating on the high seas of the Mediterranean Sea.

#### **a. North Pacific Ocean**

One large-scale driftnet fishing vessel was intercepted on the high seas of the Northwestern Pacific Ocean by the Fisheries Agency of Japan (FAJ) in 2004 (see "Japan's Driftnet Enforcement Efforts in the North Pacific" below for more information). In addition, there were at least 21 other vessels sighted operating in the Northwestern Pacific that were capable of driftnet fishing.

#### **(1) Regional Driftnet Enforcement Coordination**

[North Pacific Anadromous Fish Commission \(NPAFC\)](#): The NPAFC serves as a forum for promoting the conservation of anadromous stocks and ecologically-related species, including marine mammals, sea birds, and non-anadromous fish, in the high seas area of the North Pacific Ocean. This area, as defined in the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean (the Convention that established the NPAFC), is "the waters of the North Pacific Ocean and its adjacent seas, north of 33° North Latitude beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured." The members of the NPAFC are Canada, Japan, the Republic of Korea (ROK), Russia, and the United States.

In addition, the NPAFC serves as the venue for coordinating the collection, exchange, and analysis of scientific data regarding the above species within Convention waters. It also

coordinates high seas fishery enforcement activities by member countries. The Convention prohibits directed fishing for salmonids and includes provisions to minimize the incidental take of salmonids in other fisheries in the Convention area. Although the Convention does not specifically ban high seas driftnet fishing, fishing for salmonids on the high seas has historically been carried out in this manner. As a result, the NPAFC and its enforcement activities are primarily targeted against high seas driftnet fishing vessels. All members of the NPAFC have for the last several years jointly planned and coordinated their high seas enforcement operations in order to most efficiently utilize all enforcement resources.

NPAFC Joint Operations Information Coordination Group (JOICG): The NPAFC established the JOICG in 2001 to exchange enforcement-related information via computer and communications technology for the protection of salmon resources in the NPAFC Convention Area. The JOICG is comprised of designated enforcement officials from each of the NPAFC Parties who serve as conduits for the exchange and dissemination of such information to their respective governments. Since November 2001, JOICG points-of-contact have communicated with each other at a minimum of once each month to ensure open lines of communication. The NPAFC Parties effectively used the JOICG to plan and coordinate in-season enforcement activities in 2004 and agreed to continue the work of the Group in 2005. In 2005, members will focus on improving information sharing.

NPAFC Enforcement Evaluation and Coordination Meeting (EECM): Representatives from the NPAFC Parties met in Kushiro City, Hokkaido, Japan, on 26-27 May 2004, for the annual NPAFC EECM. The meeting included presentations by each Party on enforcement efforts to date in 2004; coordination of enforcement plans and resources for the remainder of 2004; a presentation on an Integrated Information System, a software tool proposed by the Russian delegation to improve information sharing and coordination; and a discussion on the future work of the Enforcement Procedures Working Group, which is charged with evaluating on an on-going basis areas of improvement and expansion of enforcement activities to prevent the illegal harvest of salmon in the Convention Area. On the final day of the meeting, attendees participated in a demonstration cruise aboard the FAJ patrol vessel *TOKO MARU*. The *TOKO MARU* had intercepted a high seas driftnet vessel, the *CHUN JIN NO. 1*, just a few days earlier.

NPAFC Annual Meeting: The 12<sup>th</sup> Annual Meeting of the NPAFC was held in Sapporo, Hokkaido, Japan, on 24-29 October 2004. Enforcement officials of the Parties met under the auspices of the NPAFC Committee on Enforcement to review enforcement activities in 2004, based on presentations from each Party.

Despite the Parties' cooperative enforcement efforts in 2004, one vessel was detected engaged in illegal large-scale driftnet fishing for salmon in the NPAFC Convention Area, the F/V *CHUN JIN NO. 1*. This vessel was boarded by the Fisheries Agency of Japan (FAJ) patrol vessel *TOKO MARU* (see "Japan's Driftnet Enforcement Efforts in the North Pacific" below). In addition, the U.S. sighted or received reports of 21 other suspected high seas driftnet vessels operating in the North Pacific. The NPAFC Parties were unable to investigate and, in some cases, positively identify, many of these vessels because of their remote location.

In light of the continuing threat of unauthorized high seas salmon fishing in the Convention Area, Parties agreed to maintain 2005 enforcement efforts at high levels as a deterrent to unauthorized fishing activity. To coordinate enforcement efforts, the Parties agreed to hold the annual EECM in Russia in May 2005. Russia proposed that the Parties consider creating an Integrated Information System that would be used to enter and retrieve information on vessels suspected of illegal high seas driftnet fishing--the equivalent of a "suspect-vessel list." The Parties agreed to begin using this system in a trial mode in 2005, and the NPAFC is providing the funding for the purchase and maintenance of this system. Having this system in place in 2005 should lead to better coordinated and more effective enforcement efforts and tracking of suspect vessels.

The contributions of each NPAFC Party and the People's Republic of China (PRC) to the 2004 high seas driftnet fisheries enforcement effort follow:

## **(2) U.S. Driftnet Enforcement Efforts in the North Pacific**

To monitor compliance with the driftnet moratorium, the USCG and the NMFS Office for Law Enforcement continued to carry out surveillance activities in North Pacific high seas areas that in the past were routinely fished by large-scale driftnet vessels. Operation North Pacific Watch, the USCG's 2004 high seas driftnet enforcement plan, began in April. From May-August 2004, USCG aircraft from Air Station Barbers Point Hawaii and Air Station Kodiak Alaska flew 5 deployments for a total of 109 surveillance hours in the NPAFC Convention Area (167 hours total, including transit time).

NMFS Special Agents and Enforcement Officers deployed with Canadian CP-140 and USCG C-130 air patrols in the NPAFC Convention Area expended a total of 125 person-hours engaged in high seas driftnet fisheries enforcement activities in 2004.

Patrol Results: USCG patrols did not detect any vessels actively engaged in fishing contrary to the NPAFC Convention and no boardings were conducted by USCG cutters. USCG aircraft did detect several vessels carrying gear on board capable of being used for large-scale driftnet fishing in the Convention Area. U.S. tuna fishermen in the western North Pacific reported sightings of at least nine potential high seas driftnet vessels. They reported seeing sharks, seabirds, and dolphins in the driftnets being retrieved. Seawater temperatures in the area were 16-20° C, hence the driftnet vessels were believed to be targeting squid. There were also vessels sighted in the Convention Area engaged in legitimate fisheries. There were many radar contacts not visually observed, which were believed to be a mixture of driftnet vessels, legitimate operators, and vessels in transit. Table 1 is a summary of high seas driftnet-capable vessels detected in the North Pacific in 2004. Several of the vessels were sighted in the North Pacific in 2003.

As noted in Table 1, a number of the vessels were sighted by U.S. tuna fishermen in the western North Pacific. Details on the sightings provided to the USCG by the U.S. fishing industry noted that several of the vessels had the word "Sarong or Sorong" (a major fishing port in Irian Jaya, Indonesia) on their hulls, indicating that the vessels might be Indonesian flagged. However,

when approached by the U.S. Government with the evidence from the sightings, Indonesian Ministry of Fisheries officials denied issuing fishing licenses to, or ever hearing of, the vessels.

Information on the vessel sightings was also provided to Taiwan in October 2004 to see if any of them were registered in Taiwan. Taiwan authorities responded that none of the vessels were Taiwan-flagged. Taiwan's Fisheries Agency said it did not issue any permits for driftnet vessels to operate in the North Pacific--only squid-jigging vessels.

### **(3) Canadian Driftnet Enforcement Efforts in the North Pacific**

Canada conducted 16 aerial patrols for a total of 159 hours of surveillance covering 10 million square miles in the North Pacific high seas driftnet fishing area in 2004. Canadian flight operations involved two Department of National Defense (DND) CP-140 Aurora aircraft contracted by the Department of Fisheries and Oceans (DFO), associated flight crews, technicians and ground support, plus two DFO fishery officers and one NMFS special agent. The patrols were conducted from Eareckson Airfield, Shemya Island, Alaska, from late April-mid-May 2004. The surveillance area was a quadrilateral defined by the coordinates 40°N, 175°W; 50°N, 175°W; 53°N, 167°E, and 40°N, 149°E. These coordinates were chosen based on the high probability of thermoclines used by salmon, USCG threat assessment information, and experience. In addition, a member of the Canadian DND assigned to the operational tasking of the aircraft was located at USCG 17<sup>th</sup> District Headquarters in Juneau, Alaska, to coordinate information and surface support operations.

Canadian surveillance flights detected 430 radar targets within the operational area; of which 29 were visually identified and 11 fully photographed. Two contacts were suspected high seas driftnet vessels. Due to the fact that the two vessels were sighted at the extreme edge of the aircraft's range, only one was visually inspected and it appeared to have driftnets on board. The vessel, believed to be the *VICTORIA JAVA*, was observed at 35°10"N, 169°14"E on 6 May 2004. After being overflown, the vessel moved further south, making revisits impossible.

### **(4) Japan's Driftnet Enforcement Efforts in the North Pacific**

Japan's 2004 driftnet fishery enforcement efforts consisted of the deployment in the North Pacific Ocean of five Fisheries Agency of Japan (FAJ) patrol vessels for a total of 55 ship days at sea from May to September, two Hokkaido local government patrol vessels for 143 ship days at sea from April through July, and 16 Japan Coast Guard vessels for a total of 137 ship days at sea from April through July. Japan Coast Guard and FAJ aircraft flew a total of 78 hours (54 hours for fixed wing and 24 hours for helicopter) and 66 hours, respectively, in May-July 2004, in the North Pacific.

**Table 1.** Summary of driftnet-capable vessels detected operating in the North Pacific Ocean in 2004.

Date	Vessel Name*	Flag	Position	Source of Report	Action
6 May	<i>VICTORIA JAVA</i>	Unknown	35-10N, 169-14E	Canadian CP-140 Aircraft	Sighting information passed to NPAFC, PRC, and Indonesia
6 May	Unidentified	Unknown	36-57N, 168-34E	Canadian CP-140 Aircraft	Sighting information passed to NPAFC, PRC, and Indonesia
16 May	<i>CHUN JIN NO. 1</i>	Georgia	43-48N, 165-21E	Japanese Patrol Vessel	FAJ boarding, NPAFC letter, and U.S. demarches to Georgia and Taiwan
19 May	<i>VICTORIA JAYA 2</i>	Unknown	35-32N, 162-43E	U.S. Tuna Fishing Vessel	Sighting information passed to NPAFC, PRC, and Indonesia
21 May	<i>VICTORIA 1 JAYA</i>	Unknown	36-12N, 161-08E	USCG C-130 Aircraft	Sighting information passed to NPAFC, PRC, and Indonesia
21 May	<i>VICTORIA JAYA IV</i>	Unknown	36-15N, 161-19E	USCG C-130 Aircraft	Sighting information passed to NPAFC, PRC, and Indonesia
21 May	<i>CHUN JIN NO. 1</i>	Georgia	36-14N, 161-18E	USCG C-130 Aircraft	Sighting information passed to NPAFC, PRC, and Taiwan
27 June	<i>TUNG YANG NO. 188</i>	Unknown	38-55N, 160-48E	U.S. Tuna Fishing Vessel	Sighting information passed to NPAFC, PRC, and Indonesia
28 June	<i>TONG YANG NO. 168</i>	Unknown	39-01N 161-35E	U.S. Tuna Fishing Vessel	Sighting information passed to NPAFC, PRC, and Indonesia
28 June	<i>VICTORIA JAYA</i>	Unknown	39-00N, 161-27E	U.S. Tuna Fishing Vessel	Sighting information passed to NPAFC, PRC, and Indonesia
28 June	Unidentified	Unknown	39-02N, 161-18E	U.S. Tuna Fishing Vessel	Sighting information passed to NPAFC, PRC, and Indonesia
29 June	<i>FUND YIH NO. 16</i>	Unknown	38-47N, 161-35E	U.S. Tuna Fishing Vessel	Sighting information passed to NPAFC, PRC, and Indonesia
30 June	<i>HENG YE NO. 17</i>	Unknown	38-53N, 161-44E	U.S. Tuna Fishing Vessel	Sighting information passed to NPAFC, PRC, and Indonesia
12 Sept.	11 High Seas Driftnet Fishing Vessels	PRC	40N-41N 152E-153E	PRC Fisheries Law Enforcement Command	Information passed to NPAFC

\* Note: several of the vessels in Table 1 have very similar names and were of similar profiles. As a result, some are believed to be duplicate reports, and the best estimate for number of high seas driftnet-capable vessels sighted in the North Pacific in 2004 is 22.



On 16 May 2004, the FAJ patrol vessel *TOKO MARU* intercepted the *CHUN JIN NO. 1*, fishing with large-scale driftnets in the NPAFC Convention Area at approximately 43° N, 165° E. When Japanese enforcement authorities boarded the vessel, they discovered that it had been registered in Georgia, but that the Georgian certificates on board had expired in October 2003. The vessel captain was from Taiwan and the crew was from China. The captain claimed that the company managing the vessel was based in Taiwan. Approximately 10 metric tons (t) of pink salmon were found in the vessel's hold. According to the captain, the vessel set a 7-mile long driftnet once each day. The net was on board at the time of the boarding and inspection, but there were signs that it had been used recently. Japanese authorities issued the captain a warning that he was fishing contrary to the NPAFC Convention and ordered the *CHUN JIN NO. 1* to cease fishing and leave the NPAFC Convention Area.

According to Japanese enforcement authorities, Taiwan authorities have taken measures against the vessel in accordance with their internal regulations, and have prosecuted and penalized the vessel captain by revoking his license.

#### **(5) Republic of Korea's Driftnet Enforcement Efforts in the North Pacific**

In August 2003, the USCG intercepted two ROK-flagged vessels, the F/V *305 KUM MI* and the F/V *ZHENG YANG NO. 3*, conducting large-scale driftnet fishing operations in the North Pacific. The ROK Government said it would fully investigate the two cases upon receipt of USCG law enforcement case packages and the return of the vessels to port. The United States provided the ROK Government the case packages in mid-October 2003.

On 16 September 2004, the ROK notified the United States of the results of its investigation. Regarding the F/V *305 KUM MI*, the captain and the fishing license holder were both fined 2 million won (approximately \$1,740). The vessel's fishing license and the captain's license were suspended for 60 days. The fishing license for the F/V *ZHENG YANG NO. 3* was suspended for 20 days and the vessel's captain received a reprimand.

The ROK Government is currently not prepared to conduct high seas fisheries enforcement operations. It has one patrol vessel capable of high seas fisheries enforcement duty, however that vessel is needed to patrol the ROK EEZ. The ROK expressed its hope at the 2004 NPAFC Annual Meeting that it would be able to participate in high seas fisheries enforcement activities in the future.

#### **(6) Russian Federation's Driftnet Enforcement Efforts in the North Pacific**

The Border Service of the Federal Security Service of the Russian Federation utilized enforcement assets of the Northeast Regional Border Directorate in Petropavlovsk-Kamchatsky and the Pacific Regional Border Directorate in Vladivostok to patrol the North Pacific Ocean for driftnet violations in 2004. The Border Service deployed two patrol vessels--the *VOROVSKY* and the *818*--during May-June 2004, and the *MANCHZHUR* from 25-28 August and 6-9 and 14-17 September in the NPAFC Convention Area. The Border Service employed AN-72 aircraft for

18 aerial surveillance flights over the Convention Area from May through September. In addition, shipborne helicopters from Russian patrol vessels operating in the Russian EEZ conducted patrols of the edge of the Russian EEZ and parts of the Convention Area. The results of the air patrols were passed to the Parties after conclusion of the patrols. Two AN-72 patrols were not conducted due to poor weather conditions in Kamchatka.

Russian patrols did not detect any illegal high seas driftnet vessels in 2004.

#### **(7) People's Republic of China Driftnet Enforcement Efforts in the North Pacific**

The People's Republic of China's Fisheries Law Enforcement Command (FLEC) continued to increase its participation in high seas fisheries enforcement. For the second straight year, the PRC FLEC dispatched patrol vessels to the North Pacific. In 2004, two FLEC patrol vessels patrolled the high seas driftnet threat area. The USCG supported these patrols by coordinating the timing and positioning of USCG C-130 aircraft surveillance flights with these PRC surface patrols. This resulted in real-time communications and the passage of sighting information between U.S. and PRC patrol assets. These joint patrol efforts were made possible through a May 2004 USCG-NMFS fisheries law enforcement delegation visit to the PRC. Although the PRC FLEC patrol vessels did not sight or board any PRC high seas driftnet vessels in 2004, their highly publicized patrol efforts and bilateral engagement with the United States are continuing to pose an increasingly strong disincentive to PRC vessels and nationals to engage in large-scale high seas driftnet fishing operations.

On 12 September 2004, FLEC officials notified the USCG that 11 PRC-flagged vessels were suspected to be engaged in high seas driftnet fishing activity between latitudes 40°N and 41°N, and longitudes 152°E and 153°E (Table 1). Unfortunately, neither country had enforcement assets available in the area to investigate. In late October, the USCG received word from the FLEC officials that they were coordinating enforcement action at all coastal ports in an attempt to locate the vessels.

#### **(8) Potential Driftnet Threat in the North Pacific Ocean in 2005**

Despite the actions taken by the international community to implement the UN global driftnet moratorium, large-scale high seas driftnet fishing activity persists in the North Pacific Ocean. The high threat areas for illegal large-scale high seas driftnet fishing in 2005 are expected to remain fairly consistent with those areas where such activity was detected in the past, although the target fishery has shifted from salmon to primarily squid and tuna. Driftnet fishing targeting salmon is expected to take place north of 47°N, west of 173°E, and bounded by the U.S. and Russian EEZs. The greatest threat period for salmon is generally from April through June and for other species is from May through November. High seas driftnet fishing vessels targeting squid may deploy nets in areas of strong temperature change. Targeted areas primarily include waters with a sea surface temperature (SST) between 14-17° Celsius (C). These waters typically occur in the North Pacific between 38°-48°N and 150°E - 165°W. Strong evidence suggests fishing vessels target areas where SST changes rapidly over short distances. Historical evidence shows that Japanese fishing vessels deployed driftnets in areas where SST may differ by 2-3° C

from one end of the net to the other. Prime fishing areas may be locations where the SST isotherm dips down to the south and forms a "U" shaped pocket.

U.S. Driftnet Enforcement Efforts for 2005: To support U.S. enforcement efforts in the North Pacific in 2005, the USCG will conduct surveillance with its HC-130 aircraft at levels comparable to recent years. The USCG is also planning a patrol of the North Pacific high seas driftnet threat area with a 378' High Endurance Cutter. If operational factors allow, this patrol will be coordinated with the enforcement efforts of the PRC, Japan and the ROK. The USCG also intends to continue its policy of issuing *Local Notices to Mariners* prior to and during the high-threat driftnet fishing season. As shown by 2004 sightings in Table 1, reporting by U.S. fishermen is critical to U.S. and international efforts to stop illegal driftnet fishing. The USCG intends to improve upon the information provided in these notices and will partner with the other Parties to the NPAFC to provide more detailed information on high seas driftnet fishing to mariners via an internet website. The United States will continue to encourage other countries in the region to establish similar systems for advising mariners.

NMFS will continue to place enforcement officers on Canadian high seas driftnet surveillance flights during 2005. At the request of the PRC FLEC, NMFS and the USCG are planning to host a 14-member PRC FLEC delegation for a fisheries law enforcement training and information exchange visit in early 2005. The target of this event will be mid-level PRC FLEC directors and the goal will be to continue to increase PRC FLEC professionalism and effectiveness in fisheries law enforcement, with a special emphasis on high seas fisheries enforcement. Due to the remote location of the high seas driftnet threat and the multinational nature of the vessels involved, the United States will continue to push for other countries to become more involved in this mission

Canadian Driftnet Enforcement Efforts for 2005: The Canadian Government will commit 180 hours of air surveillance time to high seas driftnet fisheries enforcement in 2005, however no firm dates have been set for aircraft deployments. The 2005 patrol area will be similar to the area patrolled in 2004.

Japanese Driftnet Enforcement Efforts for 2005: Japan intends to maintain the same level of enforcement effort in 2005.

Russian Driftnet Enforcement Efforts for 2005: Russia will utilize *DZERZHISKY* and *BARS* class patrol vessels to patrol the Russian EEZ, including the northern part of the NPAFC Convention Area, from April-October. Russia also plans to conduct 10 surveillance flights over the Convention Area using AN-72 aircraft from May-August.

Multilateral Enforcement Efforts for 2005: The Parties to the NPAFC have agreed to maintain 2005 enforcement efforts at high levels to ensure a sufficient enforcement presence in the area to serve as an effective deterrent. To coordinate enforcement efforts, the Parties agreed to tentatively hold the EECM in Russia in May 2005.

## **b. Mediterranean Sea**

In addition to the UNGA global moratorium on large-scale high seas driftnet fishing, three other international mechanisms are in place to prohibit large-scale driftnet fishing in the Mediterranean Sea:

European Union (EU) Ban on Driftnets: In 1997, the EU began to consider an EU-wide driftnet ban in the Mediterranean Sea and North Atlantic Ocean as a means of effectively enforcing the UN driftnet moratorium. On 8 June 1998, the EU Fisheries Council adopted a law banning the use of driftnets by 1 January 2002 in all waters falling within the jurisdiction of Member States, as well as outside those waters. The EU driftnet ban entered into force on 1 January 2002.

General Fisheries Commission for the Mediterranean (GFCM): At its 22<sup>nd</sup> Session in October 1997, the GFCM adopted binding resolution 97/1 concerning the use of large-scale pelagic drift-net gear. The resolution, taking UNGA resolution 44/225 into account and considering that uncontrolled expansion and growth of driftnet fishing may entail serious disadvantages in terms of increased fishing effort and increased bycatches of species other than target species, prohibits vessels flying the flag of a Contracting party of GFCM from keeping on board, or fishing with, one or more drift-nets whose individual or total length is more than 2.5 km.

International Commission for the Conservation of Atlantic Tuna (ICCAT) Driftnet Resolution: On 26 November 2003, ICCAT adopted at its 18<sup>th</sup> Annual Meeting in Dublin, Ireland, a recommendation (03-04) which prohibits the use of driftnets in fisheries for large pelagic species in the Mediterranean by its Contracting Parties, Cooperating Non-Contracting Parties, Entities, and Fishing Entities. Unless they file a formal objection to the recommendation, Contracting Parties are legally bound by the recommendation. In practical terms, the recommendation closes a driftnet fishing loophole that could be used by countries which are members of ICCAT but not the EU, and therefore are not bound by the EU driftnet ban. Unlike the UN high seas driftnet moratorium, neither the EU ban nor the ICCAT recommendation differentiates between driftnet fishing on the high seas or in territorial waters--driftnet fishing is prohibited in both.

Developments in 2003-2004: On 20 November 2003, the World Wildlife Federation (WWF)-International released a report titled "Biodiversity impact of the Moroccan driftnet fleet in the Alboran Sea." The report claimed that the Moroccan driftnet fleet, with 177 vessels, is killing thousands of dolphins and other vulnerable species, such as sharks and sea turtles, in the Alboran Sea and around the Straits of Gibraltar. The WWF also alleged that Italian, French, Turkish, and most probably other fishing fleets are using driftnets in breach of existing legislation and the United Nations driftnet moratorium. The WWF report came out in advance of the Conference on Mediterranean Fisheries, which was held in Venice, Italy, on 23-25 November 2003. The WWF urged the EU to monitor and prosecute all of the fleets of its member states using driftnets. It also called on the General Fisheries Commission for the Mediterranean, and non-EU countries, particularly those in North Africa, to introduce legislation banning the use of driftnets in the Mediterranean Sea.

At the 2003 ICCAT Annual Meeting, Morocco admitted to having a driftnet fleet. At the time ICCAT's driftnet recommendation was adopted, Morocco made a statement for the record of its intention to devise a national plan to phase out driftnet gear and pledged to work with the European Union and others to accomplish this. At the 15-21 November 2004 ICCAT Annual Meeting in New Orleans, Morocco presented a 4-year plan for eliminating the use of driftnets in its fisheries, primarily through public education and assistance to its fishermen. The U.S. ICCAT delegation highlighted the urgency of this action and offered to work with Morocco to help expedite implementation of the plan.

Conservation organizations continue to assert that up to 600 vessels with driftnets from 7-9 km in length, are operating throughout the Mediterranean Sea. Despite such claims, the United States did not receive any confirmed sightings of large-scale driftnet vessels operating on the high seas of the Mediterranean in 2003 and 2004.

## **2. Interagency Agreements**

Fisheries Enforcement Memorandum of Understanding (MOU): On 11 October 1993, the Secretaries of Transportation, Commerce, and Defense entered into the Memorandum of Understanding Between the Secretary of Transportation, the Secretary of Commerce and the Secretary of Defense Relating to the Enforcement of Domestic Laws and International Agreements that Conserve and Manage the Living Marine Resources of the United States. The MOU, required under Section 202 of Public Law 102-582, the High Seas Driftnet Fisheries Enforcement Act, established a mechanism for the use of the surveillance capabilities of the Department of Defense for locating and identifying vessels violating U.S. marine conservation laws and international agreements, including UNGA Resolution 46/215. The MOU also set formal procedures for communicating vessel locations to the Secretary of Commerce and the U.S. Coast Guard. A copy of the MOU was attached to the 1993 Driftnet Report to the Congress.

## **3. Bilateral Driftnet Agreements**

### **a. U.S.-PRC MOU**

The United States and the PRC continued to work together in 2004 to ensure effective implementation of UNGA Resolution 46/215 in the North Pacific Ocean pursuant to the terms of the *Memorandum of Understanding Between the Government of the United States of America and the Government of the People's Republic of China on Effective Cooperation and Implementation of United Nations General Assembly Resolution 46/215 of December 20, 1991*, signed in Washington D.C. on 3 December 1993. The MOU (also referred to as the "Shiprider Agreement") established boarding procedures for law enforcement officials of either country to board and inspect U.S. or PRC flagged vessels suspected of driftnet fishing. The MOU also established a shiprider program, which allows PRC fisheries enforcement officials to embark on U.S. Coast Guard resources during each driftnet fishing season. Pursuant to this provision, the PRC has provided a total of 34 enforcement officials to the USCG since 1994. As a bilateral

enforcement agreement, the MOU facilitates/expedites investigations of suspicious vessels when they are encountered on the high seas. The MOU was due to expire on 31 December 2004, however, on 19 November 2004, the PRC Ministry of Foreign Affairs agreed to extend it for another five years, until 31 December 2009.

Three PRC fisheries officials were stationed in Kodiak, Alaska, at the USCG North Pacific Regional Fisheries Training Center on standby to be deployed as shipriders on USCG high seas driftnet cutter patrols from mid-April through August during the 2004 high seas driftnet fishing season. These officials were instrumental in facilitating communications with the PRC FLEC and coordinating USCG C-130 patrols with PRC FLEC patrols. The United States hopes to host a similar number of PRC officials during the 2005 fishing season. The PRC Bureau of Fisheries is planning a month-long training program at the Shanghai Fisheries University for 10 candidates for the 2005 shiprider program. Also, at the request of the PRC, the United States is planning a week-long training and information exchange program for 14 PRC FLEC regional directors. This is further evidence of the PRC's desire and effort to improve its law enforcement capabilities and eliminate illegal fishing from its waters and by PRC vessels on the high seas.

#### **b. U.S.-Italy Driftnet Agreement**

Following an order of the U.S. Court of International Trade, the United States on 19 March 1999 identified Italy as a nation for which there is reason to believe its nationals or vessels are conducting large-scale driftnet fishing beyond the EEZ of any nation, pursuant to the U.S. High Seas Driftnet Fisheries Enforcement Act (the Act). This marked the second time the United States identified Italy pursuant to the Act (the first identification was in 1996). As a result of the identification, the United States began consultations with the Government of Italy on 17 April 1999 to obtain an agreement to effect the immediate termination of such activities. Agreement was formally reached by the two countries on 15 July 1999, via an exchange of diplomatic notes. Complete details of the agreement can be found in the NMFS 1999 Driftnet Report to the Congress.

The 1999 driftnet agreement reiterated the Government of Italy's commitment to full implementation of the measures to combat large-scale high seas driftnet fishing contained in the 1996 U.S.-Italy driftnet agreement. As a result of Italy's driftnet vessel conversion program (a product of the 1996 agreement), about 85 percent of Italy's driftnet fleet of 679 vessels were converted to other fishing methods or scrapped by March 2000. The Government of Italy expected the remaining vessels to continue to fish in Italian waters until the EU driftnet ban entered into force in 2002 (Italy is a member of the EU).

Italy took a number of measures in addition to the driftnet vessel conversion program to strengthen the enforcement of its laws relating to driftnet fishing. It publicized a March 1999 court decision prohibiting the possession, as well as use of, driftnets longer than 2.5 kilometers. Italy increased boarding and inspections of driftnet vessels at dockside. The Italian Government implemented a detailed 1999 enforcement action plan involving joint enforcement efforts with European Union fisheries inspectors and proposed bilateral enforcement agreements with other EU Mediterranean countries. The Italian Coast Guard committed to increase at-sea monitoring

by regional Coast Guard districts and spot checks of seized driftnets, until such netting can be destroyed.

#### Recent Developments:

2003 In early July 2003, a report on the website for DELPHIS-Mediterranean Dolphin Conservation claimed that a total of 22 Italian driftnet vessels 15-20 m long were fishing for swordfish in the vicinity of the Island of Ischia in the Mediterranean. Although there was no evidence that any of these vessels were fishing beyond Italy's territorial waters with large-scale driftnets, the U.S. Government asked Italian authorities to investigate the report.

On July 25, 2003, representatives of the U.S. Department of State and U.S. Embassy Rome met with Italian fisheries officials to discuss the status of Italy's driftnet fleet. Italian officials described a series of steps that Italy has taken to bring driftnet fishing to an end. These steps included:

- Enacting legislation in December 2002 that requires "compulsory dismissal or conversion" (boats could be scrapped or convert to another gear type) of the driftnet fishing licenses of the remaining 89 licensed driftnet vessels that did not participate in Italy's earlier driftnet conversion program. The legislation allocated a total of 5 million euros, half to be distributed as compensation to vessel owners and the other half to crew members. This sum included funds provided by the Sicilian and Calabrian regional governments.
- Identifying crew members and vessel owners who would be compensated under the retirement scheme. Each valid crew member (about 320 total) would receive 7,500 euros in compensation, even if he converts to another type of fishing. According to the law, the compensation for owners who decide to convert to another type of fishing would vary from 9,861 to 60,333 euros, depending on vessel tonnage. If the owners decide to be compensated for scrapping their vessels, the compensation (which will also include EU funds) would be much higher, varying from 75,000 to 353,560 euros for the same-size vessels.
- Canceling the driftnet portions of the fishing licenses of all of the 89 remaining vessels.
- Deleting the names of those vessels from the EU Vessel Registry, which contains a unique registration number for each vessel.
- Seizing and sealing the driftnets from all 89 vessels. According to the law, the driftnets can be "recycled or transformed" and the owners will get to keep the profits from recycling operations.
- Receiving European Commission approval for Italy's compensation plan in February 2003. Part of the Commission's review included a finding that the buyback funds were not a "market-distorting measure."

- Seeking to initiate a uniform sanction scheme among all EU member states in order to reduce disparities in the level of sanctions applied for fisheries violations. The EU Fisheries Council will establish a catalogue of sanctions to be applied by member states for serious infringements. Italian officials also mentioned the idea of establishing an EU joint inspection structure at the community level, pooling national and EU monitoring and inspection resources for more effective implementation of control across the EU. Regarding enforcement, Italian officials pointed out that non-EU and North-African fishermen are still allowed to use driftnets. For this reason, the EU will try to transform its driftnet ban into a Mediterranean-wide ban, using the instrument of the General Fisheries Council for the Mediterranean (GFCM). Italy insists on the need for a comprehensive approach by the EU on Mediterranean fisheries issues. For this reason, the Government of Italy organized the Mediterranean Conference on Fisheries that took place in Venice on 25-27 November 2003.
- Considering the use of marine reserves and marine sanctuaries to protect spawning and nursery areas for marine species.

Italian officials were not aware of the report of driftnet fishing operations out of ports on the Island of Ischia, but suggested that there will always be some fishermen who try to break the rules. They provided copies of the July 2002 law establishing the mandatory end of driftnet fishing, and a summary of driftnet Enforcement activities for 2002. They also promised to provide information about seized or surrendered driftnet recycling operations and a summary of driftnet enforcement efforts for 2003.

2004: Pursuant to a meeting on 22 January 2004 between representatives of the U.S. State Department and U.S. Embassy in Rome and Italy's Under Secretary of Agriculture, Paolo Scarpa Bonazza Buora, Italian enforcement officials provided 2003 enforcement data to the U.S. Embassy in Rome. The data showed that all of Italy's 2003 driftnet violations occurred in Italian national waters. A total of 92 nets with a combined length of 359 km were seized by Italian authorities.

On 27 July 2004, Under Secretary Scarpa met with representatives of the World Wildlife Fund (WWF) and Greenpeace and reiterated the Government of Italy's support for the EU ban on driftnet fishing. The meeting was held after environmental groups discovered that an Italian driftnet fishing vessel had unloaded undersized swordfish in the Port of Sorrento. As a result of the meeting, the two sides agreed to set up a working group to address the illegal use of driftnets.

Environmental Groups continued to claim in 2004 that 60-100 Italian boats were still fishing with driftnets in Mediterranean waters. However, the United States did not receive any credible reports of Italian fishing vessels or nationals using large-scale driftnets on the high seas of the Mediterranean Sea in 2003 or 2004.



#### **4. Resolutions and Letters in Support of UNGA Resolution 44/225**

##### **a. UNGA Driftnet Resolutions and Decisions**

Details on UNGA Driftnet Resolutions 44/225 (1989), 45/197 (1990), 46/215 (1991), 50/25 (1995), 51/36 (1996), 52/29 (1997), 53/33 (1998), 54/32 (1999), 55/8 (2000), 57/142 (2002), 58/14 (2003), and UNGA Driftnet Decisions 47/443 (1992), 48/445 (1993), and 49/436 (1994), and supporting resolutions and actions taken by the United States in other fora prior to 2004 have been provided in previous driftnet reports to the Congress available from NMFS.

On 10 November 2004, at its fifty-ninth session, the UNGA adopted Resolution 59/25, *Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and related instruments* (attachment). Section VII of the Resolution reaffirms the importance the General Assembly attaches to continued compliance with its previous driftnet resolutions, and in particular, Resolution 46/215. It urges States and other entities, including intergovernmental organizations, to enforce fully the measures recommended in those resolutions. Finally, it requests that the Secretary-General bring the Resolution to the attention of the international community, relevant intergovernmental organizations, the organizations and bodies of the UN system, regional and subregional fisheries management organizations or arrangements, and relevant nongovernmental organizations and invite them to provide him with information relevant to the implementation of the Resolution.

The Resolution requests the Secretary-General to submit to the General Assembly at its sixtieth session a report on *Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments*, taking into account information provided by States and other entities on the relevant paragraphs in Resolution 59/25. In addition, a sub-item with the same title as Resolution 59/25 will be placed under the item “Oceans and the law of the sea” on the agenda of the sixtieth of the UN General Assembly in 2005.

##### **b. UN Driftnet Reports**

Since December 1992, the United States has been instrumental in ensuring that implementation of the high seas driftnet moratorium remains a priority of the UNGA. The United States will continue to support UNGA resolutions and decisions requesting that the UN Secretary-General submit to the General Assembly biennial reports on developments relevant to the implementation of the UN driftnet moratorium.

UNGA Resolution 58/14 adopted in November 2003, requested that the Secretary-General submit to the General Assembly at its fifty-ninth session in 2004 a report relating to the implementation of the resolution entitled *Sustainable fisheries, including through the 1995*

*Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and related instruments.* The Secretary-General's 2004 report did not convey any information on implementation of the UN driftnet moratorium.

## **B. Support for the Wellington Convention**

The United States took no specific actions in support of the Wellington Convention in 2004. The Wellington Convention, formally known as the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, prohibits driftnet fishing within the Convention Area which includes both EEZs of South Pacific countries and territories, and adjacent high seas areas. Details on U.S. actions taken prior to 2004 are provided in previous driftnet reports to the Congress. No large-scale pelagic driftnet fishing activities have been reported in the Wellington Convention area since 1991.

## **III. EVALUATION OF THE IMPACTS ON LIVING MARINE RESOURCES**

A detailed evaluation of the impacts of large-scale high seas driftnet fishing on salmonids, marine mammals and birds, tuna and non-salmonid fishes, and marine turtles was provided in the 1992 report to the Congress. The evaluation was based on catch data from the 1989-1992 scientific driftnet monitoring programs with Japan, Taiwan and the Republic of Korea. However, an enormous amount of North Pacific ecosystem data resulted from the driftnet scientific monitoring programs. Analyses and interpretation of these data continued through 1994 and descriptions of such research were included in the 1993 and 1994 driftnet reports. With the advent of the UN moratorium on large-scale high seas driftnet fishing, legal sources for scientific data on this type of fishing gear disappeared. Only Japan continues to conduct research on the distribution and abundance and status of stocks of salmonids and non-salmonid pelagic fishes in the North Pacific Ocean using small scale driftnets (driftnets less than 2.5 km).

## **IV. LIST AND DESCRIPTION OF ANY NEW FISHERIES DEVELOPED BY NATIONS THAT CONDUCT, OR AUTHORIZE THEIR NATIONALS TO CONDUCT, LARGE-SCALE DRIFTNET FISHING BEYOND THE EEZ OF ANY NATION**

We are not aware of any new fisheries that have been developed by nations that conduct, or authorize their nationals to conduct, large-scale pelagic driftnet fishing on the high seas beyond the EEZ of any nation.

**V. LIST OF NATIONS THAT CONDUCT, OR AUTHORIZE THEIR NATIONALS TO CONDUCT, LARGE-SCALE DRIFTNET FISHING BEYOND THE EEZ OF ANY NATION IN A MANNER THAT DIMINISHES THE EFFECTIVENESS OF OR IS INCONSISTENT WITH ANY INTERNATIONAL AGREEMENT GOVERNING LARGE-SCALE DRIFTNET FISHING TO WHICH THE UNITED STATES IS A PARTY OR OTHERWISE SUBSCRIBES.**

The Secretary has not identified, pursuant to the High Seas Driftnet Fisheries Enforcement Act, any other nations that conduct, or authorize their nationals to conduct, large-scale driftnet fishing beyond the EEZ of any nation in a manner that diminishes the effectiveness of, or is inconsistent with, any international agreement governing large-scale driftnet fishing to which the United States is a party or otherwise subscribes.

Italy: As detailed in Section II.A.3.b. of this report, the Secretary of Commerce identified Italy on 19 March 1999 pursuant to the High Seas Driftnet Fisheries Enforcement Act as a nation that conducts, or authorizes its nationals to conduct, large-scale pelagic driftnet fishing on the high seas beyond the EEZ of any nation. On 15 July 1999, the United States and Italy formally agreed on measures to effect the immediate termination of Italian large-scale high seas driftnet fishing. For this reason, the United States did not impose trade sanctions on Italian fish, fish products and sport fishing equipment pursuant to the Act. However, the United States has continued to apply the provision of the High Seas Driftnet Fisheries Enforcement Act that denies entry of Italian large-scale driftnet vessels to U.S. ports and navigable waters. Since 29 May 1996, it has also required Italy to provide documentary evidence pursuant to the Dolphin Protection Consumer Information Act (16 U.S.C. 1371(a)(2)(E)) that certain fish and fish products it wishes to export to the United States are not harvested with large-scale driftnets on the high seas.

The fact that the United States received no reports of Italian fishing vessels using large-scale driftnets on the high seas of the Mediterranean Sea from 1999-2004 speaks for the success of the U.S.-Italy driftnet agreement. However, the U.S. Government remains concerned by reports from conservation organizations in 2004 that some Italian vessels and nationals may still be engaged in large-scale high seas driftnet fishing. The United States is optimistic that the combined efforts of the Italian Government/conservation organization working group, the EU, the GFCM, and ICCAT will bring an end to any illegal Italian driftnet fishing that may still be occurring. The U.S. Government will continue to request information from Italy concerning its driftnet enforcement efforts. Based on this enforcement information, and any other information the U.S. Government receives in 2005 regarding driftnet fishing by Italian vessels and nationals, the Secretary may consider rescinding the remaining sanctions (denial of port access for Italian driftnet vessels and the import documentation requirements described above) against Italy in 2005.

Morocco: Although the United States did not receive any confirmed sightings of Moroccan large-scale driftnet vessels operating on the high seas of the Mediterranean in 2003 and 2004, Morocco has verified that it has a driftnet fleet and that it intends to phase out this fleet over a 4-

year period. The United States has offered to assist Morocco in implementing this program in 2005 with the hope of accelerating the phaseout program. Representatives from NMFS and the Department of State plan to meet with Moroccan officials early in 2005 to discuss what form this assistance might take.

PRC: The United States remains concerned that at least 11 PRC driftnet vessels were potentially engaged in large-scale high seas squid driftnet fishing in the North Pacific Ocean in 2004. However, the United States is encouraged with the enforcement actions taken by the PRC Government in 2004--particularly the commitment of two FLEC vessels to patrol the high seas driftnet threat area to deter illegal driftnet fishing activity. The U.S. Government will continue to work with the PRC Government to improve PRC enforcement efforts and presence in the North Pacific. The U.S.-PRC shiprider agreement pursuant to the *Memorandum of Understanding Between the Government of the United States of America and the Government of the People's Republic of China on Effective Cooperation and Implementation of United Nations General Assembly Resolution 46/215 of December 20, 1991* continues to function successfully and has been renewed for another 5 years, until 31 December 2009. The United States will take into consideration the excellent cooperation received from the PRC Government and the results of the PRC's investigations of the 2004 driftnet cases involving PRC-flagged or owned vessels in determining any actions to take pursuant to the High Seas Driftnet Fisheries Enforcement Act.